UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR 1508
1 August 2002

ENGLISH
Original FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1508th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 13 March 2002, at 10 a m.

Chairman: Mr. DIACONU

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR 1508/Add.1.

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GE.02-40773 (E) 310702 010802

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fifteenth periodic report of Denmark (CERD/C/408/Add.1; HRI/CORE/1/Add 58) (continued)

1 At the invitation of the Chairman, the members of the delegation of Denmark took places at the Committee table

2. Mr. LEHMANN (Denmark) noted that many of the questions raised at the previous meeting concerned Greenland. The Commission on Self-Government, established in 1999, would submit its final report in July 2002, covering such diverse subjects as the economy, employment, education, legal and constitutional issues and security. The report would be discussed by the Greenland authorities before being considered by the Danish Government, which would certainly inform the Committee of its conclusions. The Government would likewise report to the Committee on the decision to be adopted by the Danish Supreme Court in the case of construction of the Thule air force base, which was still under consideration

3. Responding to the question on why the Danish Centre for Human Rights had undergone a budget cut, he said that human rights institutions were not being specifically targeted by any means: the Centre was one of the hundred or so institutions and programmes that had been cut back under the most recent State budget in favour of other sectors of activity. It nevertheless retained its independent status and had received the additional assignment of providing assistance to victims of racial discrimination, in conformity with the European Union's Council Directive 2000/43/EC on implementation of the principle of equal treatment. The State budget's readjustment would also have an impact on the international assistance provided by Denmark, however, which would amount to 1 per cent of the GDP, well above the 0.7 per cent set for States Members of the United Nations

4. Everyone had the right to be buried in a cemetery, and Danish legislation made provision for all religious communities to have plots reserved for them in cemeteries or to establish separate cemeteries exclusively for their use, so long as they bore the entirety of the costs involved and respected local land-use plans. The Muslim community thus had available to it not only a number of mosques and cultural centres in Denmark but also sections reserved in certain cemeteries. In addition, a request to establish an exclusively Muslim cemetery had been submitted. An appropriate piece of land had been found in the northern part of Copenhagen; negotiations on its price were under way.

5. Lastly, he pointed out that while, in theory, bilingual children could use a language other than Danish in day-care centres and kindergartens, the National Social Research Institute had carried out a study which showed that that was not always the case. The authorities were giving serious consideration to the matter which had been drawn to their attention.

6 Mr. GAMMELTOFT (Denmark) added that the Integration Act remained in force and, accordingly, the integration machinery and initiation programmes were still in place. The policy paper issued by the Government on 5 March 2002 was aimed at improving the efficiency of the efforts made as part of those initiatives The objective remained unchanged, namely the satisfactory integration of immigrants, which was the common responsibility of society as a whole, not solely of immigrants. The only transfer of responsibility where integration was concerned had been, not from the central Government to local authorities, but from private organizations to local authorities. It was nevertheless important to note, on the one hand, that such a transfer was in line with a long Danish tradition of decentralization, whereby local authorities bore extensive responsibility for social welfare, health care and primary and secondary education, and on the other that the integration policy of local authorities was naturally conducted under close Government supervision. With regard to refugees, when adopting decisions, the immigration services were expected to take due account of the wishes expressed by individual refugees on where they wished to live. Nearly 70 per cent of all refugees were accordingly accommodated in the community they had requested.

7. Ms. BOZTROPAK (Denmark) reported that, since 1998, the rate of unemployment of Danish citizens had fallen from 6 to 5 per cent, that of immigrant workers from the developed countries from 9 to 8 per cent and that of immigrant workers from developing countries from 28 to 17 per cent. The unemployment rate among the latter was still too high, even though it had been reduced by the largest proportion, and the Government was aware that it constituted a major impediment to integration. In its policy paper, it had listed three major reasons for the situation: diplomas and qualifications obtained abroad were hard to evaluate; such qualifications were not evaluated systematically; and language training that was truly geared to the needs of the labour market was lacking.

8. Ms. ELTARD (Denmark) said that unemployment among immigrants was a complex problem. Whereas the number of jobs offered to immigrants had kept pace with the constant rise in immigration over the past 10 years, that had obviously not sufficed, nor had the numerous integration measures undertaken in the public sector and described in the report. The hardest thing to achieve, which took the longest, was to change people's attitudes. The special placement units described in paragraph 16 (b) of the report, which had been set up in 2000 within the Public Employment Services in the five regions with the highest proportion of immigrants, seemed to have been a success. Twenty consultants had been recruited for three years on a full-time basis as part of that initiative, with the objective mainly of strengthening contacts between enterprises and workers who belonged to ethnic minorities, through such actions as the creation of a database on job-seekers from such minorities. The experiment would be continued in 2002-2003 and the possibility of extending it to the whole country would be considered.

9. Another interesting programme for integrating immigrants into the labour market was the "ice-breaker" scheme referred to in paragraph 16 (c) of the report, under which six-month subsidies were offered to enterprises that recruited immigrants or refugees. According to a survey carried out in early 2002, 400 such agreements had been signed since 1998 and had apparently had a positive impact on long-term integration into the labour market, since 61 per cent of the beneficiaries had been recruited to non-subsidized posts at the end

of their subsidized employment Some 75 per cent of those beneficiaries held diplomas and most of them felt that the job offered to them made use of their training. The name of the programme, which had been renewed and for which funds had again been allocated, was derived from the hope that once enterprises had taken the step of recruiting a member of a minority group, they would become progressively less reticent with regard to minorities in general.

10. Mr. GAMMELTOFT (Denmark) drew the Committee's attention to paragraphs 62 to 69 of his country's report, relating to the right of foreigners to marry, and emphasized the fact that the precautions taken with regard to granting permission for family reunification were aimed solely at protecting young people against forced marriage. It was the Danish Immigration Service that took decisions on such matters or, in the second instance (if a refusal was challenged), the Ministry of Integration, in the light of the circumstances of the marriage and of whether the couple had maintained contact prior to the date of the marriage. Nevertheless, it was extremely difficult to go against family pressure and to prove that a marriage was forced, since the mere involvement of the family did not suffice to prove that the couple concerned had not freely consented to the marriage. From June 2000 to December 2001, the absence of consent had been cited in only 10 cases as grounds for refusing family reunification, whereas 1,700 reunification permits had been issued during that period. That was why, for the sake of efficacy, the Government planned to raise the minimum age for submitting a request for family reunification to 25 years, under a proposal included in the amendments to the Aliens Act that were currently being considered in Parliament.

11. Another of the proposed amendments provided for the possibility of revoking a residence permit granted on grounds of refugee status within seven years, if the conditions that had justified the granting of such status no longer existed in the country of origin. A further amendment was intended to rationalize procedures for requesting asylum. The objective was to limit the number of refugees in certain parts of the country in order better to integrate the immigrants already present in Denmark. If the amendments were adopted, they would be applied subject to full respect for the obligations entered into by the State under international instruments, as explicitly stated in the preamble to the draft legislation submitted to Parliament.

12. He pointed out lastly that the term "refugee" as used in the report referred not only to refugees in the sense of the 1951 Geneva Convention but also to de facto refugees. It did not, on the other hand, cover asylum-seekers. According to provisional statistics, the number of requests for asylum had increased by around 2,000 between the years 2000 and 2001, totalling 12,512, of which 5,742 had been accepted (compared with 4,338 in the year 2000).

13. Mr. HINDSBERGER (Denmark) said that, under article 266 b of the Criminal Code, racist insults against individuals or groups were punished only if they took the form of public statements or were intended for wide circulation. For all other racist insults, the provisions that applied were article 266, relating to threats, and article 267, relating to defamation. Parliament had recently reviewed article 266 b and decided not to amend it. The Danish State did not consider the penalties under the article to be particularly lenient in comparison with punishments for similar offences. At the same time, they were not easy to apply, given that the Danish Constitution guaranteed freedom of expression for all and that it was sometimes difficult to distinguish between racist statements and political arguments As for the question of whether the

report should quote verbatim the racist insults, for which those uttering them had been convicted under article 266 b of the Criminal Code, the Government had hitherto favoured the practice, in the interests of information and objectivity. In the future, however, it would take account of the comments made in that regard.

14. Since 1992, police stations had been obliged to keep the National Security Service, which was answerable to the National Commissioner of Police, informed of all offences clearly having a racist motive. The Security Service was thus in a position, where necessary, to detect the emergence of organized criminal activity with a racist or xenophobic motive.

15. Jurors and lay judges were chosen from a list drawn up every four years by municipal selection committees on the basis of certain criteria. To carry out such functions, a person had to be of Danish nationality and aged over 18, not to have been disqualified or deprived of legal capacity, to be in good physical and mental health and, lastly, to have an adequate knowledge of Danish. Since such criteria excluded members of minorities, the Board for Ethnic Equality had recommended that people who had been permanently resident in Danish territory for over three years should be considered. Since the bill to amend the selection criteria had not been passed, the administrative regulation itself had been amended and municipal selection committees were currently required to ensure that minorities were equitably represented

16. Lastly, he said that, at the beginning of 2002, seminars had been arranged to instruct judges on various topics relating to racial discrimination, including the interpretation of Shariah law and the challenges facing multicultural societies.

17. Mr. THORNBERRY requested the State party to inform the Committee at some point about the decision of the Danish Supreme Court in the Sulinermik Inuussutissarsiuteqartut Kattuffiat (SIK) v. Denmark case, which related to the ownership rights of the Thule people in Greenland and the ways in which individuals could be identified as belonging to a specific racial or ethnic group or groups. In that regard, he drew the delegation's attention to the Committee's General Recommendation VIII, concerning the interpretation and application of article 1 of the Convention, paragraphs 1 and 4, and General Recommendation XXIII, concerning the rights of indigenous peoples. Lastly, he asked whether there was just one indigenous community in Denmark or whether any subgroup also existed.

18. Mr. de GOUTTES expressed concern at the large number of cases in which foreigners had found themselves refused access to restaurants or discotheques. In such cases, it was a major problem to establish proof. He asked whether, in civil cases, Denmark intended to take measures to reverse the burden of proof, in accordance with a European Union directive according to which it was for the defendant to prove the absence of racial discrimination. As for criminal cases, he wondered whether any anti-racism associations intended to bring test cases. He also asked whether Denmark used mediation in cases of racial discrimination, which was said to have worked in other countries.

19. Ms. JANUARY-BARDILL asked why the establishment of integration councils, as provided for under the 1999 Integration Act, was not compulsory and systematic but had to be requested jointly by at least 50 persons She also asked how many such councils had been set up.

20. Mr. SHAHI commended the Government's efforts to enable members of minorities to become lay judges, as well as to familiarize judges with the principles of Islamic law.

21. Mr. PILLAI wished to know how many cases had been brought before the courts under article 266 b of the Criminal Code and how many had ended in a conviction.

22. Mr. LEHMANN (Denmark) said that he could naturally not predict the Supreme Court's decision in the SIK v. Denmark case, but Denmark would certainly provide the Committee with further information on the issue when it could. He added that there was only one indigenous people in the Kingdom of Denmark: the Inuit of Greenland In his view, to recognize the existence of several indigenous peoples in Greenland would constitute a threat to the peace and security of the region.

23. Mr. HINDSBERGER (Denmark) confirmed that the Danish courts had already handed down sentences under article 266 b of the Danish Criminal Code (CERD/C/362/Add.1, para. 140). As for mediation, since 1998 Denmark had been running pilot projects to confront aggressors with their victims. Those projects were currently being assessed and Denmark would provide further information on the topic, particularly regarding how far such methods were used in cases of racial discrimination, when the results of the assessment were known.

24. Mr. GAMMELTOFT (Denmark) said that, once the European Union directive on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin entered into force, Denmark would transfer the burden of proof to the defendant, so that it would be for the managers of discotheques or restaurants to prove that they had not refused to admit certain people to their establishment for discriminatory reasons, rather than for the victims to prove the contrary.

25. He explained that the reason why the establishment of integration councils was not systematic and compulsory but subject to a request by at least 50 people was that the percentage of foreigners in many small Danish communities was so minimal that such institutions would be useless. Moreover, some municipalities had such wide experience in the sphere of integration, because they had a high number of foreign residents, that the establishment of councils would be superfluous.

26. Mr. ABOUL-NASR said that the argument that the strict application of article 4 of the Convention could run counter to freedom of expression was often used as a pretext for not punishing those who indulged in racist insults. He wished to know precisely why Radio Oasen broadcasts had been banned. Lastly, he asked what the 18 per cent of foreigners who were unemployed lived on.

27. Mr. AMIR asked whether Denmark had a basic law to protect its citizens against any act of racial discrimination, regardless of the political majority in power

28. Mr. LEHMANN (Denmark) said that, although freedom of expression was deeply rooted in Danish tradition, Denmark nonetheless had no intention of using that principle as a pretext in order to evade its obligations under the Convention. He noted in that regard that Denmark had not made any reservations concerning article 20, paragraph 2, of the International Covenant on Civil and Political Rights, relating to advocacy of racial hatred and incitement to discrimination, at the time that it had ratified the Covenant.

29. Although not all the rights set out in the Universal Declaration of Human Rights of 1948 were enshrined in the Danish Constitution of 1953, article 7 thereof did contain a basic principle whereby no one could be deprived of the full and entire enjoyment of civil and political rights on the grounds of beliefs or ancestry.

30 Lastly, he said that Radio Oasen had been banned from broadcasting for three months for having put out statements expressing hatred towards various minorities

31. Ms. BOZTROPAK (Denmark) said that all unemployed people, whether Danish or of foreign origin, were subject to the same rule: those who had already worked and paid social security contributions received an unemployment allowance, while others received social benefits.

32 Ms. JANUARY-BARDILL (Country Rapporteur) commended the regularity with which Denmark submitted its periodic reports to the Committee, thus showing its commitment to the cause of eliminating racial discrimination. She welcomed the measures adopted by Denmark in implementation of the 1998 Integration Act, which had led to greater respect for minorities and refugees. She particularly welcomed the application of article 266 b of the Criminal Code, the efforts to reduce unemployment rates among minorities and refugees, the establishment of integration councils, the provision of housing for refugees, the positive attitude adopted by Denmark to the individual communications submitted to the Committee under article 14 of the Convention, the establishment of the Commission on Self-Government and, lastly, the translation of the Convention into Greenlandic.

33 She drew the Danish delegation's attention, however, to the fact that the end effect of some measures aimed at improving integration for minorities, such as quotas for access by the children of minorities to day-care centres, could prove the opposite to that intended.

34. Lastly, recalling that there had recently been a significant reduction in the budget of the national human rights institutions, she said that Denmark, known to be a country that was tolerant and respectful of human rights, should not place such obstacles in the way of the functioning of a flourishing institution.

35. The CHAIRPERSON thanked the Danish delegation. The Committee had concluded its consideration of the fifteenth periodic report of Denmark.

36. The Danish delegation withdrew.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

Draft concluding observations of the Committee concerning the second and third periodic reports of Switzerland (CERD/C/351/Add.2; CERD/C/60/Misc.2/Rev.1) (document distributed during the meeting, in English only)

Paragraph 1

37. Paragraph 1 was adopted.

Paragraph 2

38. Mr. HERNDL proposed that, in the first line, the word "comprehensive" be deleted.

39. Paragraph 2, as amended, was adopted.

Paragraph 3

40. Paragraph 3 was adopted.

Paragraph 4

41. The CHAIRMAN proposed that the word "racial" should be inserted before the word "discrimination" in the last line.

42. Paragraph 4, as amended, was adopted.

Paragraph 5

43. Paragraph 5 was adopted.

Paragraph 6

44. After an exchange of views, in which Mr. AMIR, Mr. ABOUL-NASR, Mr. de GOUTTES, Mr. SICILIANOS and Mr. TANG (Country Rapporteur) took part, Mr. THORNBERRY proposed that the paragraph should be reworded in the following terms: "The Committee welcomes the information provided by the State party on the number of cases dealt with by the Swiss courts under article 261 bis of the Penal Code, which penalizes public incitement to racial hatred and discrimination and the spreading of racist ideas."

45. Paragraph 6, as amended, was adopted.

Paragraph 7

46. Paragraph 7 was adopted with a minor drafting change.

Paragraph 8

47. After an exchange of views in which Mr. SICILIANOS, Mr. LINGREN ALVES, Mr. AMIR, Mr. ABOUL-NASR, Mr. SHAHI and Mr. RESHETOV took part, Mr. HERNDL proposed rewording the paragraph to state that: "The Committee wishes to emphasize that despite the federal structure of the State party, which may render more difficult the full application of the State party's obligations under the Convention in all parts of its territory, the Federal Government has the responsibility of ensuring the implementation of the Convention on its entire territory and must ensure that cantonal authorities are aware of the rights set out in the Convention and take the necessary measures in order to respect them "

48 The CHAIRMAN said that the Committee would continue to examine the draft concluding observations on the second and third periodic report of Switzerland at a later meeting. He invited the members of the Committee to examine a communication submitted under article 14 of the Convention in a closed meeting.

The first part (public) of the meeting rose at 12.30 p.m.